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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : ALLMANDINGER et al.  
Appl. No. : 10/695,958  
Filed : October 30, 2003  
Title : ADJUSTABLE FLANGE DEVICE FOR COVER MEMBER IN  
DRIVE AXLE ASSEMBLY  
Group Art Unit : 3681  
Examiner : Ho, H. D.  
Docket No. : 08200.623

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March 2, 2005

Hon. Commissioner of Patents &  
Trademarks  
Washington, D.C. 20231

RESPONSE TO WRITTEN RESTRICTION

Sir:

In the Office Action of February 14, 2005, the Examiner subjected claims 1-19 to restriction and/or election requirement. Applicant respectfully traverses the Examiner's restriction requirement.

First, the Examiner erroneously alleges that claims 10-19 are drawn to a method for manufacturing a differential assembly, classified in class 29, subclass 434. In fact, claims 10-19 are drawn to a method for adjusting a position of an adjustable sealing flange device for a cover member of a vehicular drive axle assembly including a differential assembly module, not to the method for manufacturing the differential assembly. Thus, contrary to the Examiner's allegation, the method of claims 10-19 is not classified in class 29, but rather in the same class 475.

Moreover, claims 10-19 recite the drive axle assembly as recited in claim 1. Thus, contrary to the Examiner's allegation, (1) the method for adjusting a position of the adjustable sealing flange device, as claimed in claims 10-19, cannot be practiced by another materially

different drive axle assembly as recite every limitation of the drive axle assembly recited in claim 1, and (2) the adjustable sealing flange device of the drive axle assembly as claimed in claims 1-9 cannot be adjusted using another and materially different method (see MPEP § 806.05(e)).

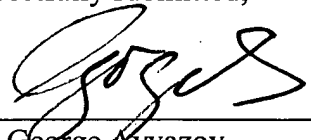
Thus, the Examiner's requirement to restrict claims 1-19 of the present invention is improper.

However, in case the Examiner is unconvinced by our arguments, Applicant hereby elects Group I, claims 1-9, drawn to a drive axle assembly.

Please note that applicant reserves the right to file a divisional application directed to the non-elected embodiments of the instant invention at any time during the pendency of the present application.

It is submitted that the present application is now in condition for examination on its merits, and action to that fact is earnestly solicited. Should the Examiner believe further discussion regarding the above claims would expedite prosecution, he is invited to contact the undersigned at the number listed below.

Respectfully submitted,

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